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6 Attorneys for Complainant

7 **BEFORE THE**
8 **CALIFORNIA BOARD OF ACCOUNTANCY**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. AC-2003-19

12 **GLENN SCOTT MILLER**
1945 Palo Verde Avenue, #207
Long Beach, CA 90815

OAH No. L-2003070455

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

13 Certified Public Accountant
14 Certified No. CPA 33783

Respondent.

16 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
17 above-entitled proceedings that the following matters are true:

18 **PARTIES**

19 1. Carol Sigmann (Complainant) is the Executive Officer of the California
20 Board of Accountancy. She brought this action solely in her official capacity and is represented
21 in this matter by Bill Lockyer, Attorney General of the State of California, by Desiree A. Phillips,
22 Deputy Attorney General.

23 2. Glenn Scott Miller (Respondent) is representing himself in this proceeding
24 and has chosen not to exercise his right to be represented by counsel.

25 3. On or about December 4, 1981, the California Board of Accountancy
26 issued Certified Public Accountant Certificate Number CPA 33783 to Glenn Scott Miller
27 (Respondent). The certificate is currently valid and will expire on July 31, 2004, unless renewed.

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1 California.

2 3. **Submit Written Reports.** Respondent shall submit, within ten (10) days
3 of completion of the quarter, written reports to the Board on a form obtained from the Board.
4 The Respondent shall submit, under penalty of perjury, such other written reports, declarations,
5 and verification of actions as are required. These declarations shall contain statements relative to
6 Respondent's compliance with all the terms and conditions of probation. Respondent shall
7 immediately execute all release of information forms as may be required by the Board or its
8 representatives.

9 4. **Personal Appearances.** Respondent shall, during the period of probation,
10 appear in person at interviews/meetings as directed by the Board or its designated
11 representatives, provided such notification is accomplished in a timely manner.

12 5. **Comply With Probation.** Respondent shall fully comply with the terms
13 and conditions of the probation imposed by the Board and shall cooperate fully with
14 representatives of the California Board of Accountancy in its monitoring and investigation of the
15 Respondent's compliance with probation terms and conditions.

16 6. **Practice Investigation.** Respondent shall be subject to, and shall permit,
17 practice investigation of the Respondent's professional practice. Such a practice investigation
18 shall be conducted by representatives of the Board, provided notification of such review is
19 accomplished in a timely manner.

20 7. **Comply With Citations.** Respondent shall comply with all final orders
21 resulting from citations issued by the California Board of Accountancy.

22 8. **Tolling of Probation For Out-of-State Residence/Practice.** In the event
23 Respondent should leave California to reside or practice outside this state, Respondent must
24 notify the Board in writing of the dates of departure and return. Periods of non-California
25 residency or practice outside the state shall not apply to reduction of the probationary period, or
26 of any suspension. No obligation imposed herein, including requirements to file written reports,
27 reimburse the Board costs, or make restitution to consumers, shall be suspended or otherwise
28 affected by such periods of out-of-state residency or practice except at the written direction of the

1 Board.

2 9. **Violation of Probation.** If Respondent violates probation in any respect,
3 the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation
4 and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke
5 probation is filed against Respondent during probation, the Board shall have continuing
6 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
7 is final.

8 10. **Completion of Probation.** Upon successful completion of probation,
9 Respondent's license will be fully restored.

10 11. **Ethics Course/Examination.** Respondent shall take and pass with a score
11 of 90 percent or better a Board approved ethics examination (within a given period of time or
12 prior to the resumption of practice). (Exam will be passed prior to resumption of practice where
13 license has been suspended or where otherwise appropriate.)

14 If Respondent fails to pass said examination within the time period provided or
15 within two attempts, Respondent shall so notify the Board and shall cease practice until
16 Respondent takes and successfully passes said exam, has submitted proof of same to the Board,
17 and has been notified by the Board that he may resume practice. Failure to pass the required
18 examination no later than 100 days prior to the termination of probation shall constitute a
19 violation of probation.

20 Notwithstanding any other provision of this probation, failure to take and pass this
21 examination within five years of the effective date of this order constitutes a separate cause for
22 discipline of Respondent's license.

23 12. **Continuing Education Courses.** Respondent shall complete 24 hours of
24 professional education courses as specified by the Board or its designee at the time of
25 Respondent's first probation appearance. The professional education courses shall be completed
26 within a period of time designated and specified in writing by the Board or its designee, which
27 time-frame shall be incorporated as a condition of this probation. This shall be in addition to
28 continuing education requirements for relicensing.

1 Failure to satisfactorily complete the required courses as scheduled or failure to
2 complete same no later than 100 days prior to the termination of probation shall constitute a
3 violation of probation.

4 13. **Active License Status.** Respondent shall at all times maintain an active
5 license status with the Board, including during any period of suspension. If the license is expired
6 at the time the Board's decision becomes effective, the license must be renewed within 30 days of
7 the effective date of the decision.

8 14. **Community Service - Free Services.** Respondent shall participate in a
9 community service program as directed by the Board or its designee in which Respondent
10 provides free professional services on a regular basis to a community or charitable facility or
11 agency, amounting to a minimum of 100 hours. Respondent shall submit proof of compliance
12 with this requirement to the Board. Respondent is entirely responsible for his performance in the
13 program and the Board assumes neither express nor implied responsibility for Respondent's
14 performance nor for the product or services rendered.

15 15. **Cost Reimbursement.** Respondent shall reimburse the Board \$6,650.00
16 for its investigation and prosecution costs. The payment shall be made in quarterly payments due
17 with quarterly written reports. The final payment is due one year before probation is scheduled to
18 terminate.

19 **ACCEPTANCE**

20 I have carefully read the Stipulated Settlement and Disciplinary Order. I
21 understand the stipulation and the effect it will have on my Certificate Number CPA 33783.
22 I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and
23 intelligently, and agree to be bound by the Decision and Order of the California Board of
24 Accountancy.

25 DATED: 2/19/04

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27 
28 **GLENN SCOTT MILLER**
Respondent

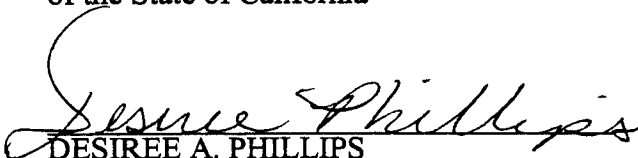
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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the California Board of Accountancy of the Department of Consumer Affairs.

DATED: 2/18/04.

BILL LOCKYER, Attorney General
of the State of California


DESIREE A. PHILLIPS
Deputy Attorney General

Attorneys for Complainant

**BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

GLENN SCOTT MILLER
1945 Palo Verde Avenue, #207
Long Beach, CA 90815

Certificate No. 33783

Respondent.

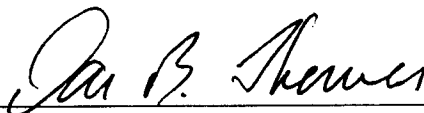
Case No.AC-2003-19

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy of the Department of Consumer Affairs, as its Decision in the above-entitled matter.

This Decision shall become effective on June 18, 2004.

It is so ORDERED on May 19, 2004.



President

For The CALIFORNIA BOARD OF ACCOUNTANCY
CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS

Exhibit A
Accusation No. AC-2003-19

BILL LOCKYER, Attorney General
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CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. AC-2003-19

GLENN SCOTT MILLER
1945 Palo Verde Avenue, #207
Long Beach, CA 90815

Certified Public Accountant
Certificate No. CPA 33783

A C C U S A T I O N

Respondent.

The Complainant, Carol Sigmann, for causes of accusation against GLENN
SCOTT MILLER, alleges:

PARTIES

1. Carol Sigmann (Complainant) brings this Accusation solely in her official
capacity as the Executive Officer of the California Board of Accountancy, Department of
Consumer Affairs.

2. On or about December 4, 1981, the California Board of Accountancy
issued Certified Public Accountant Certificate Number CPA 33783 to Glenn Scott Miller
(Respondent). The certificate is currently valid and will expire on July 31, 2004, unless renewed.

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JURISDICTION

3. This Accusation is brought before the California Board of Accountancy (Board), Department of Consumer Affairs under the authority of Business and Professions Code section 5100. Section 5100 provides that the Board may revoke, suspend or refuse to renew any permit or certificate issued by the Board, or may censure the holder of any such permit or certificate, for unprofessional conduct that includes, but is not limited to one or any combination of the following causes:

"...

(c) ...[R]epeated negligent acts committed in the same or different engagements, for the same or different clients, or any combination of engagements or clients, each resulting in a violation of applicable professional standards that indicate a lack of competency in the practice of public accountancy. . .

...

(g) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.

...

(i) Fiscal dishonesty or breach of fiduciary responsibility of any kind.

...

(j) Knowing preparation. . . of false, fraudulent, or materially misleading . . . information."

4. Business and Professions Code section 5050 provides in pertinent part: "No person shall engage in the practice of public accountancy in this State unless such person is the holder of a valid permit to practice public accountancy issued by the board. . ."

5. Business and Professions Code section 5051 states in pertinent part: "...that a person shall be deemed to be engaged in the practice of public accountancy within the meaning and intent of this chapter if he or she does

any of the following:

(a) Holds himself or herself out to the public in any manner as one skilled in the knowledge, science, and practice of accounting, and as qualified and ready to render professional service therein as a public accountant for compensation.

(b) Maintains an office for the transaction of business as a public accountant.

...

(g) Prepares or signs, as the tax preparer, tax returns for clients.

...

(i). . . A person is not holding himself or herself out, soliciting, or advertising for clients within the meaning of this section solely by reason of displaying a CPA or PA certificate in his or her office or identifying himself or herself as a CPA or PA on **other than** signs, advertisements, letterhead, business cards, publications directed to clients or potential clients, or financial or tax documents of a client [emphasis added]."

6. Title 16, California Code of Regulations, Section 87 states in part:
"(a) 80 Hours.

As a condition of active status license renewal, a licensee shall complete at least 80 hours of qualifying continuing education as described in Section 88 in the two-year period immediately preceding license expiration, and meet the reporting requirements specified in subsection (a) of Section 89. A licensee engaged in the practice of public accountancy as defined in section 5051 of the Business and Professions Code is required to hold a license in active status. No carryover of continuing education is permitted from one two-year license renewal period to another.

(f) Failure to Comply

A licensee's willful failure to comply with the requirements of this section shall constitute a cause for disciplinary action pursuant to section 5100(f) of the Accountancy Act.^{1"}

7. Section 118(b) of the Code provides that the suspension, expiration, or forfeiture by operation of law of a license issued by the board shall not deprive the board of its authority to institute or continue a disciplinary proceeding against the license upon any ground provided by law or to enter an order suspending or revoking the license.

8. Section 5107 of the Code, provides that the executive officer of the board may request the administrative law judge, as part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or certificate found guilty of unprofessional conduct in violation of subdivisions (b), (c), (i) or (j) of section 5100, to pay to the board all reasonable costs of investigation and prosecution of the case.

FACTS

9. On or about May 23, 2001, Respondent was issued administrative citation and fine CT-2001-35 for practicing public accountancy without a valid permit between August 1, 2000 and at least May 23, 2001. The assessed fine was in the amount of twelve hundred dollars (\$1,200.00). Respondent renewed his certificate through July 31, 2002, in accordance with the citation's order of abatement. Respondent's permit to practice expired on August 1, 2002.

10. On or about November 7, 2002, Respondent was found to be engaging in the practice public accountancy while his permit to practice was expired.

(a) A sign on the front of the building showed Respondent's name with the "CPA" designation for Suite 207.

(b) The door to the suite included Respondent's name with the "CPA" designation.

1. Former Business and Professions Code section 5100(f) is now 5100(g), and 5100(i) is now 5100(j), amended by Stats.2002, c. 231 (A.B.270).

1 (c) Respondent admitted that his accounting practice primarily consisted
2 of tax return preparation.

3 (d) Respondent admitted that he signed tax returns as a CPA.

4 (e) Respondent used business cards with the "CPA" designation during
5 the period his certificate was expired.

6 (f) Respondent used letterhead with the designation "CPA" during the
7 period his certificate was expired

8 11. On or about November 27, 2002, respondent submitted a renewal
9 application for the period ending July 31, 2002. Respondent failed to complete the required 80
10 hours of continuing education before July 31, 2002. The fine from Citation No. CT-2001-35 was
11 not paid until on or about November 27, 2002. Respondent's certificate to practice public
12 accountancy was not valid during the period from August 1, 2002 to November 26, 2002.

13 **FIRST CAUSE FOR DISCIPLINE**

14 *(Practicing Public Accountancy Without A Valid Permit)*

15 12. Complainant incorporates herein by reference each of the allegations set
16 forth in paragraphs 1 through 11 above.

17 13. Respondent is subject to disciplinary action under Business and
18 Professions Code sections 5050 and 5100(g) in that from August 1, 2002 to at least November 7,
19 2002, he engaged in the practice of public accountancy without a valid permit.

20 **SECOND CAUSE FOR DISCIPLINE**

21 *(Repeated Acts of Negligence)*

22 14. Complainant incorporates herein by reference each of the allegations set
23 forth in paragraphs 1 through 13 above.

24 15. Respondent is subject to disciplinary action under Business and
25 Professions Code sections 5100(c) and (g), by and through violations of sections 5051(a), (b), (g)
26 and (i) for repeated acts of negligence for engaging in the practice of public accountancy without
27 a permit under each of the following circumstances:

28 (a) Respondent held himself out to the public as a public accountant by

1 signage on the front of the building where his office was located bearing
2 Respondent's name with the "CPA" designation for Suite 207, during a
3 period of time when Respondent's certificate was expired;

4 (b) Respondent held himself out to the public as a public accountant by
5 signage on the door to Suite 207, where Respondent maintained his office,
6 which included Respondent's name with the "CPA" designation, during
7 the period of time when Respondent's certificate was expired;

8 (c) Respondent held himself out to the public as a public accountant by
9 preparing tax returns during the period of time when Respondent's
10 certificate was expired;

11 (d) Respondent held himself out to the public as a public accountant by
12 signing tax returns using the designation "CPA" during the period of time
13 when Respondent's certificate was expired;

14 (e) Respondent held himself out to the public as a public accountant by
15 using business cards with the "CPA" designation during the period of time
16 when his certificate was expired;

17 (f) Respondent held himself out to the public as a public accountant by
18 using letterhead with the designation "CPA" during the period of time his
19 certificate was expired; and

20 (g) By maintaining an office for the transaction of business as a public
21 accountant during the period of time his certificate was expired.

22 **THIRD CAUSE FOR DISCIPLINE**

23 *(Failure to Comply with Continuing Education Licensing Requirements)*

24 16. Complainant incorporates herein by reference each of the allegations set
25 forth in paragraphs 1 through 15 above.

26 17. Respondent is subject to disciplinary action under Business and
27 Professions Code section 5100(g) and Title 16, California Code of Regulations, Section 87(a)
28 and (f), in that he did not complete 80 hours of qualified continuing education during the two

1 years preceding the license expiration date of July 31, 2002, as required for an active status
2 license.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 *(Breach of Fiduciary Duty)*

5 18. Complainant incorporates herein by reference each of the allegations set
6 forth in paragraphs 1 through 17 above.

7 19. Respondent is subject to disciplinary action under Business and
8 Professions Code section 5100(i) in that he breached his fiduciary duty to his clients, and each of
9 them, after July 31, 2002, until November 27, 2002, by thereafter representing to his clients that
10 he was licensed to practice as a certified public accountant by preparing and signing tax returns
11 using his name and the designation "CPA" when, in fact, he was not.

12 **FIFTH CAUSE FOR DISCIPLINE**

13 *(Preparation of False, Fraudulent or Misleading Information)*

14 20. Complainant incorporates herein by reference each of the allegations set
15 forth in paragraphs 1 through 19 above.

16 21. Respondent is subject to disciplinary action under Business and
17 Professions Code 5100(g) and (j) for preparing and signing tax returns for his clients using the
18 designation "CPA" during a period of time when his certificate was expired.

19 **DISCIPLINE CONSIDERATIONS**

20 *(Prior Discipline)*

21 22. To determine the degree of discipline, if any, to be imposed on
22 Respondent, Complainant alleges that on or about June 1, 1993, in a prior action, the California
23 Board of Accountancy ordered discipline against Respondent in Accusation Number 1991-17.
24 In that action, Respondent was disciplined for retaining records of seven (7) separate clients and
25 failing to return them in a timely manner in violation of Business and Professions Code section
26 5100(f), and Title 16, California Code of Regulations, section 68. In that action, effective July
27 1, 1993, Respondent's certificate No. 33783 was revoked, stayed, and placed on probation for a
28 period of 5 years, under terms and conditions. A true and correct copy of the Stipulation for

1 Discipline and Order and of Accusation No. 1991-17 is attached hereto as Exhibit "A", and
2 incorporated by reference as though fully set forth.

3 23. To determine the degree of discipline, if any, to be imposed on
4 Respondent, Complainant further alleges that on or about June 21, 2001, in a prior action, the
5 California Board of Accountancy issued Citation Number CT-2001-35 and ordered Respondent
6 to do the following:

7 (a) cease and desist practicing as a certified public accountant until he
8 obtained an active permit to practice;

9 (b) pay an administrative fine of one thousand two hundred dollars
10 (\$1,200.00); and

11 (c) provide the Board with a completed renewal application and fees and
12 documentation of completion of 80 hours of continuing education for the
13 license renewal period commencing August 1, 2000.

14 The circumstances of that Citation are that from at least August 1, 2000 through May 23, 2001,
15 Respondent engaged in the practice of public accountancy without a valid permit in violation of
16 Business and Professions Code section 5050. That Citation is now final. A true and correct copy
17 of CT-2001-35 is attached hereto as Exhibit "B", and incorporated herein by reference as though
18 fully set forth.

19 PRAYER

20 WHEREFORE, the complainant requests that a hearing be held on the matters
21 alleged herein, and that following said hearing, the Board issue a decision:

22 1. Revoking, suspending or otherwise imposing discipline upon Certified
23 Public Accountant Certificate Number CPA 33783, issued to GLENN SCOTT MILLER;

24 2. Ordering GLENN SCOTT MILLER to pay the board the reasonable costs
25 of the investigation and prosecution of the case, according to the presentation of proof at hearing,
26 pursuant to Business and Professions Code section 5107; and

27 ///

28 ///

DATED: May 23, 2003

Carol Sigmann
CAROL SIGMANN
Executive Officer

Complainant

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